

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 10 2023

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

AYANNA JENKINS-TONEY,

No. 22-70007

Petitioner-Appellant,

Tax Ct. No. 18824-19L

v.

MEMORANDUM\*

COMMISSIONER OF INTERNAL  
REVENUE,

Respondent-Appellee.

Appeal from a Decision of the  
United States Tax Court

Submitted June 26, 2023\*\*

Before: CANBY, S.R. THOMAS, and CHRISTEN, Circuit Judges:

Ayanna Jenkins-Toney appeals pro se from the Tax Court's summary judgment sustaining a notice of federal tax lien to collect unpaid tax liabilities for 2015. We have jurisdiction under 26 U.S.C. § 7482(a)(1). We affirm.

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Jenkins-Toney has waived any challenge to the Tax Court’s judgment sustaining the notice of federal tax lien because she failed to raise any such challenge in her opening brief. *See Indep. Towers of Wash. v. Washington*, 350 F.3d 925, 929 (9th Cir. 2003) (explaining that “we cannot manufacture arguments for appellant and . . . will not consider any claims that were not actually argued in appellant’s opening brief . . . [a] bare assertion of an issue does not preserve a claim” (citation and internal quotation marks omitted)).

Contrary to Jenkins-Toney’s contention that she was not properly served with the Commissioner’s motion for summary judgment, the proof of service accompanying the motion gives rise to a presumption that the motion was properly served, which Jenkins-Toney has not rebutted. *See Baldwin v. United States*, 921 F.3d 836, 840 (9th Cir. 2019) (reciting common law mailbox rule); *see also* T.C. R. 21(b)(2)(B) (permitting service of papers on a party by mail, effective as of mailing date).

We reject as unsupported by the record Jenkins-Toney’s contention that the Commissioner failed to contact her to schedule a supplemental hearing.

**AFFIRMED.**